

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

**STATE FARM FIRE AND CASUALTY
COMPANY**

Plaintiff,

v.

CIVIL NO. 4:13cv138

TRUDY T. ROLLINS,

**K.L.P., a minor, by and through her mother
and next friend TRACIE LOVEJOY,**

And,

**TRACIE LOVEJOY, individually as mother
and next friend of K.L.P., a minor,**

Defendants.

OPINION & ORDER

This matter comes before the Court upon the motion of State Farm Fire and Casualty Company's Motion for Default Judgment as to Tracie Lovejoy requesting the Court enter an order of Default as to Tracie Lovey in her individual capacity. ECF No. 21. For the reasons stated herein, State Farm's Motion for Default Judgment as to Tracie Lovejoy is **GRANTED** in that she will be bound by the Court's final judgment in this case. ECF No. 21.

I. PROCEDURAL HISTORY

On October 16, 2016, State Farm Fire and Casualty Company ("State Farm") commenced this declaratory judgment action against Trudy T. Rollins ("Rollins"); K.L.P., a minor by and through her next friend Tracie Lovejoy; and Tracie Lovejoy ("Lovejoy"), individually and as

mother and next friend of the minor K.L.P. Compl., ECF No. 1. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., State Farm requests a declaration that it owes no duties under the Homeowners Policy to provide Personal Liability coverage and Medical Payments coverage for the claims of Lovejoy and K.L.P. arising out of a dog-bite incident that took place on July 12, 2013. Compl. ¶28. Rollins, the insured homeowner, and K.L.P. have appeared and filed Answers to the Complaint. Lovejoy has yet to make an appearance in this action outside of a Deposition given February 1, 2016. See, ECF No. 19, Ex. 4.

Lovejoy was served with the Summons and Complaint on October 29, 2013. ECF No. 4. Lovejoy's Answer to the Complaint was due November 27, 2013, no Answer has been filed by Lovejoy. Additionally, the Summons and Complaint were mailed to Lovejoy on April 4, 2016, and a Certificate of Mailing was filed with the Court. ECF No. 17. The Clerk entered Default against Lovejoy on April 5, 2016. ECF No. 20. State Farm has filed a Default Judgment as to Tracie Lovejoy. ECF No. 21.

II. MOTION FOR DEFAULT JUDGMENT

A. STANDARD OF REVIEW

Federal Rule of Civil Procedure 55 sets forth a two-step process for obtaining a default judgment. Subsection (a) calls for an entry of default when a party has failed to file a responsive pleading "or otherwise defend" the action within the applicable time limit. Fed. R. Civ. P. 55(a). The entry of default does not automatically entitle a party to a default judgment; rather, subsection (b) requires the Court take final action following entry of default by the Clerk. Fed. R. Civ. P. 55(b). "Although the clear policy of the Rules is to encourage dispositions of claims on their merits, trial judges are vested with discretion, which must be liberally exercised, in entering such judgments and in providing relief therefrom." United States v. Moradi, 673 F.2d 725, 727 (4th Cir. 1982)(internal citations omitted).

B. DISCUSSION

State Farm argues that default judgment is appropriate as Lovejoy has failed to defend the present case. Federal Rule of Civil Procedure 12(a) requires that a defendant serve an answer within twenty-one (21) days of being served with the summons and complaint. Fed. R. Civ. P. 12. Generally a default judgment is warranted where a defendant has failed to plead or otherwise defend the action. Fed. R. Civ. P. 55. A litigant's pro se status does not eliminate his obligation to comply with the Federal Rules of Civil Procedure. Here, Lovejoy, has failed to appear and has not complied with the Federal Rules; thus, a default judgment is appropriate under the circumstances.

Lovejoy has failed to defend the case in any way, including filing an opposition to the Motion for Default Judgment. Lovejoy was properly served with the summons and complaint on October 29, 2013 and an additional copy was mailed on April 4, 2016. ECF No. 4; ECF No. 17, Ex. 1. Lovejoy is not incompetent, a minor, or a member of the military protected by the provisions of the Soldiers' and Sailors' Civil Relief Act, specifically 50 U.S.C. § 3931.

Accordingly, State Farm's motion for Default Judgment is **GRANTED**. ECF No. 21. Ms. Tracie Lovejoy, a defendant in this case, will be bound by the Court's final disposition of the present suit.

The Clerk is **DIRECTED** to forward a copy of this Order to all counsel of record and Ms. Tracie Lovejoy.

IT IS SO ORDERED.


Robert G. Daumar
Senior United States District Judge
UNITED STATES DISTRICT JUDGE

Norfolk, VA
April 26, 2016